

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-070-05-1310-EJ]

Notice of Intent to Prepare an Environmental Assessment Concerning Oil and Gas

Leasing in the Buffalo Field Office, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to prepare an Environmental Assessment that would evaluate the leasing for oil and gas of 421 identified parcels in the Buffalo Resource Area leased since February 2000.

SUMMARY: The Bureau of Land Management (BLM) is commencing preparation of an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA). The purpose of the analysis is to examine particular environmental effects of the oil and gas lease issuance decisions made since February 2000. This EA responds to rulings of the Interior Board of Land Appeals (IBLA) and the Tenth Circuit Court of Appeals (the Court), which held that certain effects of coal bed natural gas (CBNG) development were not analyzed, or contemplated, in the 1985 Bureau of Land Management (BLM) Buffalo Resource Management Plan (RMP) Final Environmental Impact Statement (EIS). *See Pennaco Energy v. DOI*, 377 F.3d 1147 (10<sup>th</sup> Cir., filed August 10, 2004).

DATES: The public is invited to comment on this proposed action, the scope of the EA, and alternatives to be considered. The BLM can best use comments and resource information that are submitted within 30 days of publication of this notice in the Federal Register. BLM does not plan to hold scoping meetings at this time.

ADDRESSES: Please send written comments or questions to the BLM Buffalo Field Office, 1425 Fort Street, Buffalo, Wyoming 82834. Written comments, or resource information, may also be hand-delivered to the BLM Buffalo Field Office. Written comments must have the Environmental Assessment number 070-05-064 written on the front page of the comments. Comments or questions may also be sent electronically to *BFORet\_WYMail@blm.gov*. The scoping notice and other information regarding this project are posted on the Wyoming BLM website at <http://www.wy.blm.gov/nepa/bfo/>. Members of the public may examine documents pertinent to this proposal by visiting the Buffalo Field Office during business hours (8:00 a.m. to 4:30 p.m.), Monday through Friday, except holidays.

Your response is important and will be considered in the environmental analysis process. If you respond, we will keep you informed of the availability of environmental documents that address impacts that occur from this proposal. Please note that comments and information submitted regarding this project, including names, e-mail addresses, and street addresses of the respondents, will be available for public review and disclosure at the above address. Individual respondents may request confidentiality. If you wish to withhold your name, e-mail address, or street address from public view or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by the law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Paul Beels, Project Manager, BLM, Buffalo Field Office, 1425 Fort Street, Buffalo, Wyoming 82401. Mr. Beels may also be reached by telephone at (307)-684-1168.

SUPPLEMENTARY INFORMATION: This action has been prompted by a recent ruling of the IBLA and the Court concerning the adequacy of the 1985 Buffalo RMP EIS and developmental NEPA documents, such as the Wyodak EIS, to support certain oil and gas leasing decisions. In August 2004, the Court reversed a Federal District court and affirmed the decision of the IBLA that concluded that BLM had insufficient NEPA analysis to make a decision in February 2000 to issue three leases for oil and gas in an area where CBNG was likely to be produced. The Court reinstated IBLA's remand of the issuance of these three leases to BLM for "additional appropriate action."

In the course of its opinion, the Court stated that the NEPA analysis upon which the BLM relied in issuing three leases "did not consider pre-leasing options, such as not issuing leases at all." Accordingly, the BLM will evaluate whether to affirm, modify, or cancel the leases, which include the right to develop CBNG. Recognizing that the leases have been issued, the alternatives to be considered in the EA will analyze whether to modify the leasing decisions in light of the remedial issue analysis (i.e., after consideration of the appropriate environmental issues foreseeable at the time the leases were offered for sale.)

The rationale of the Court ruling requires that BLM consider those environmental issues found to have been inadequately considered in the 1985 Buffalo RMP EIS. This EA may, however, examine a broader array of environmental issues associated with CBNG leasing decisions that were reasonably foreseeable prior to the issuance of these leases. An array of environmental issues was subject to in-depth re-examination in the Powder River Basin Oil and Gas Project (PRB) EIS and RMP Amendment Record of Decision (ROD) that was signed April 30, 2003. The ROD amended the 1985 Buffalo

RMP to raise the anticipated level of use of the resource area for oil and gas and to develop appropriate resource use restrictions to mitigate impacts to other resources.

In the PRB EIS, the BLM carefully analyzed the cumulative effects on air, water, and other resources of the potential development of 51,000 CBNG wells. The BLM determined that with the leasing stipulations in the 1985 Buffalo RMP and new mitigation measures approved in the PRB EIS, the 51,000 wells would not result in any social, environmental, or economic effects that would preclude accomplishment of one or more of the 1985 Buffalo RMP objectives as long as appropriate conditions of use are required. This EA may substantially incorporate by reference impact analyses from the PRB EIS.

BLM is including in the scope of the EA the three leases that were the subject of the Court and IBLA's decisions, as well as 418 additional oil and gas leases that have been issued since February 2000 within the Buffalo Field Office administrative area. BLM will take a "hard look" at the environmental consequence of each alternative and has not foreclosed, simply because of the difficulty of implementation, choosing to implement any of the alternatives under review.

In addition to this EA, BLM is preparing an EA to consider continued implementation of the leasing decisions in the Buffalo RMP in future years.

**Potential Alternatives:**

For the purposes of analysis, the BLM has developed the following reasonable range of comprehensive alternatives, and will analyze particular environmental issues that were foreseeable at the time the leases were offered for sale:

1. No Action Alternative: Affirm the issuance of 421 leases on the terms prescribed in the 1985 RMP, as amended.
2. Modify leases to add stipulations to address issues such as water disposal, use of diesel engines, slopes, erosive soils, and proposed Areas of Critical Environmental Concern (ACEC).
3. Modify leases to subject them to less restrictive stipulations consistent with the 1985 RMP, as amended.
4. Modify leases to preclude development of CBNG. We believe that this is what the Court meant by “not issuing the leases at all,” since the Court found no problems with the adequacy of existing BLM NEPA analyses to support leasing for conventional oil and gas.